

# New Mexico EMNRD Forestry Division

## New Mexico Statutes (Annotated 1978)

### CHAPTER 68

#### ARTICLE 2 FOREST CONSERVATION

##### **68-2-8. Statewide responsibility for forest fire protection. (1979)**

The state shall have the responsibility for prevention and suppression of forest fires on all nonfederal, nonmunicipal lands in the state. Activities authorized under this section shall include, but not be limited to, cooperation with federal, state and local agencies in the development of systems and methods for the prevention, control, suppression and prescribed use of fires on rural lands and within rural communities; and providing financial, technical and related assistance to others to organize, train and equip local fire-fighting forces to prevent, control and suppress fires threatening the natural resources of rural forest areas. For such purposes:

- A. the police power of the state shall extend to such control of private forest lands as shall be necessary for the prevention and suppression of forest fires;
- B. the state forester and his agents shall have unrestricted access to private and state lands, including the use of roads and trails, in order to carry out forest fire prevention and suppression work;
- C. the state forester and his agents shall not be liable to civil action for trespass or for damages for acts done in the course of their official duties unless otherwise expressly provided by contract or agreement with the landowner, which contract or agreement is made pursuant to the provisions of the Forest Conservation Act [\[68-2-1 to 68-2-25 NMSA 1978\]](#); and
- D. the state forester and his agents may, in the event of a forest fire, summon and deputize any able-bodied man to assist in suppressing the forest fire and may request tools and equipment under the control of or owned by the landowner or timber operator upon whose lands the forest fire is burning or whose lands are threatened by the forest fire.

**History:** 1953 Comp., § 62-3-6.2, enacted by Laws 1967, ch. 208, § 2; 1979, ch. 395, § 3.

# **NEW MEXICO ADMINISTRATIVE CODE**

Rules and Regulations current for filings with the New Mexico State Records Center through New Mexico Register Vol. XIV, No.9, May 15, 2003.

## **TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 20 FOREST MANAGEMENT PART 3 RESTRICTIONS FOR FIRE PREVENTION**

### **19.20.3.1 NMAC ISSUING AGENCY**

Energy, Minerals and Natural Resources Department, Forestry Division.

[12/31/96; Recompiled 12/31/01]

### **19.20.3.2 NMAC SCOPE**

This Part applies to all persons, associations, corporations, units of government and other legal entities, on non-federal and non-municipal lands within the state.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

### **19.20.3.3 NMAC STATUTORY AUTHORITY**

This part is adopted pursuant to the authority granted to the energy, minerals and natural resources department (department) in Section 9-1-5 NMSA 1978 and the forestry division (division) pursuant to Section 68-2-16 and other Sections of the Forest Conservation Act, Section 68-2-1 to 68-2-25 NMSA 1978.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

### **19.20.3.4 NMAC DURATION**

Permanent unless a later date is cited at the end of a section or paragraph.

[12/31/96; Recompiled 12/31/01]

### **19.20.3.5 NMAC EFFECTIVE DATE**

December 31, 1996 [unless a later date is cited at the end of a section.]

[12/31/96; Recompiled 12/31/01]

### **19.20.3.6 NMAC OBJECTIVE**

Whenever warranted by climatic conditions, drought, fire danger, fire frequency, fire behavior or other factors affecting danger of forest fire, the division will initiate actions to prevent forest fires by notifying the public of the fire danger and imposing restrictions governing the use of fire, equipment or personal access to lands when the danger level poses a threat to public safety, life, property and the natural resources of the state. The state forester is the designated representative of the department secretary for the purposes of issuing orders imposing restrictions in order to prevent forest fires and rescinding orders as conditions warrant.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

### **19.20.3.7 NMAC DEFINITIONS**

- A. "Areas" means geographic locations in New Mexico where similarities in weather, topography and vegetation exist.
- B. "Campfire" means a fire started for cooking, warmth or light outside of a structure.
- C. "Closure" means a limitation to access to a given area as well as limiting the use of fire.
- D. "Fire danger" means a classification of fire danger as determined by the National Wildfire Danger Rating System. The classes are low, moderate, high, very high and extreme.
- E. "Forest fire" means a fire burning uncontrolled on lands covered wholly or in part in timber, brush, grass, grain or other inflammable vegetation.
- F. "Human-caused fire" means any fire caused directly or indirectly by a person(s).
- G. "Open burning" means burning of crop land, fields, rangeland, debris burning, slash piles, prescribed burning or weed burning.
- H. "Open fire" means the use of any cooking, heating or ignition device using natural or artificial fuel that has either an open flame or requires that the heat source be placed physically within the device (e.g., charcoal, cigarette, fireworks).
- I. "Order" means a declaration by the state forester of a restriction to prevent or suppress forest fires.
- J. "Preparedness" means the state of being ready or prepared for use or action.
- K. "Prevention" means all activities concerned with minimizing the incidence of uncontrolled human-caused fires.
- L. "Restriction" means a limitation on the use of fire, equipment or other usage of or entry into an area.
- M. "Smoking" means the use of a lighted cigarette, cigar, pipe, etc.
- N. "Suppression" means all the work of extinguishing or confining a forest fire.
- O. "Uncontrolled fire" means any fire which threatens or destroys life, property or natural resources.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

### **19.20.3.8 NMAC RESTRICTIONS**

Whenever warranted by climatic conditions, drought, fire danger, fire frequency, fire behavior or other factors affecting danger of forest fire, the state forester may order restrictions or closures which place limitations on the use of fire or order the immediate extinguishment of fires to help reduce the potential of forest fires as follows:

- A. Smoking, Campfires, Open Fires or Equipment Usage: Restrictions on smoking, campfires or open fires may be imposed in specifically defined areas. Use of logging equipment or other equipment increasing the risk of forest fire may also be limited to specified hours of operation on state and private land.

- (1) Smoking may be restricted to designated areas, within structures or within vehicles equipped with ashtrays while on paved or surfaced roads. Open fires or campfires may be restricted to developed campgrounds or in areas designated in writing by the landowner and chimneys of wood burning stoves must be equipped with approved spark arresters; access to land is not limited.
  - (2) Use of logging equipment may be limited to specified hours of operation by the division.
  - (3) The state forester may allow exceptions to these restrictions with written notification.
- B. Closure: Closures will be imposed in specifically defined areas when widespread drought conditions, extreme fire danger, fire frequency, fire behavior and other factors exist within an area of the state that pose a threat to public safety, life, property and the natural resources of the state. All open fires, open burning and operation of equipment (i.e., chainsaws, cutting torches, welders, etc.) are prohibited without the prior written approval of the state forester. Access to private lands is limited to landowners and persons with the landowners written permission.

[11/14/79, 12/19/89, 12/31/96; Recompiled 12/31/01]

### **19.20.3.9 NMAC IMPLEMENTATION**

Implementation of restrictions or closures will be coordinated between fire management agencies within areas of the state where fire restrictions become necessary to protect public safety, life, property and natural resources from forest fires. The division will provide notice to the public when restrictions are imposed, changed or rescinded.

[12/31/96; Recompiled 12/31/01]

### **19.20.3.10 NMAC PENALTIES**

Violation of this Part is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one year or both for each and every violation pursuant to Section 68-2-17 NMSA 1978.

[12/19/89, 12/31/96; Recompiled 12/31/01]

#### **History of [19.20.3 NMAC](#):**

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Regulation No. 2, Standards of Fire Restrictions, 11/16/79.

NMFRCD 89-2, Regulations Governing Fire Related Restrictions, 12/19/89.

History of Repealed Material: [RESERVED]